

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON,

Plaintiff,

V.

BETSY DeVOS, in her official capacity as Secretary of the United States Department of Education; and the UNITED STATES DEPARTMENT OF EDUCATION, a federal agency,

Defendants.

NO. 2:20-cv-01119-BJR

**NOTICE OF PENDENCY OF
OTHER ACTIONS**

Pursuant to LCR 3(h), Plaintiff State of Washington submits this Notice of Pendency of Other Actions.

1. *State of Michigan, et al. v. DeVos, et al.*,
No. 3:20-cv-04478
(United States District Court for the Northern District of California)

Michigan v. DeVos is an action brought by Michigan, California, the District of Columbia, Maine, New Mexico, and Wisconsin against Secretary DeVos and the Department of Education (Department). It was filed on July 7, 2020. The plaintiffs challenge the Department's interim final rule of July 1, 2020, relating to the funding of services under section 18005 of the CARES Act. The plaintiffs seek declaratory and injunctive relief based on claims of constitutional violations, ultra vires action, and violations of the Administrative Procedure Act.

1 On July 20, 2020, the plaintiffs filed a motion for preliminary injunction, which was set to be
 2 heard on August 24, 2020. *See* Dkt. 35.

3 None of the plaintiffs in *Michigan v. DeVos* are included in Washington's case before
 4 this Court. The plaintiffs raise an ultra vires claim that is not raised here.

5 Washington submits that transfer should not be effected pursuant to 28 U.S.C. § 1407
 6 (Multi District Litigation Procedures). Transfer of this proceeding to a different jurisdiction
 7 would inconvenience the parties and witnesses (who all, for Washington, reside in this Court's
 8 jurisdiction). Given the urgent relief sought and the approaching hearing on Washington's
 9 motion for preliminary injunction (scheduled for August 10, 2020), Dkts. 8, 22, which precedes
 10 the hearing date on the motion for preliminary injunction in *Michigan v. DeVos* (scheduled for
 11 August 24, 2020), transfer would likely unduly delay the relief that Washington seeks.
 12 Coordination between the actions would not avoid conflicts, conserve resources, or promote a
 13 just or efficient determination of the action pending before this Court.

14 ***National Association for the Advancement of Colored People, et al. v. DeVos,
 et al.,
 No. 1:20-cv-01996, (United States District Court for the District of
 Columbia)***

17 *NAACP v. DeVos* is an action brought by the NAACP, various public school children
 18 and their parents, and three public school districts against Secretary DeVos and the Department.
 19 It was filed on July 22, 2020. The plaintiffs challenge the Department's interim final rule of
 20 July 1, 2020, relating to the funding of services under section 18005 of the CARES Act. The
 21 plaintiffs seek declaratory and injunctive relief based on claimed violations of the Constitution
 22 and the Administrative Procedure Act.

23 None of the plaintiffs in *NAACP v. DeVos* are included in Washington's case before this
 24 Court. Moreover, none of the plaintiffs are states or direct recipients of emergency funding under
 25 sections 18002 or 18003 of the CARES Act.

1 Washington submits that transfer should not be effected pursuant to 28 U.S.C. § 1407
 2 (Multi District Litigation Procedures). Transfer of this proceeding to a different jurisdiction
 3 would inconvenience the parties and witnesses (who all, for Washington, reside in this Court's
 4 jurisdiction). Given the urgent relief sought and the approaching hearing on Washington's
 5 motion for preliminary injunction (scheduled for August 10, 2020), Dkts. 8, 22, and the lack of
 6 a pending motion for preliminary injunction in *NAACP v. DeVos*, transfer would likely unduly
 7 delay the relief that Washington seeks. Coordination between the actions would not avoid
 8 conflicts, conserve resources, or promote a just or efficient determination of the action pending
 9 before this Court.

10 DATED this 29th day of July, 2020.

11 ROBERT W. FERGUSON
 12 Attorney General

13 *s/ Paul M. Crisalli*

14 PAUL M. CRISALLI, WSBA No. 40681
 15 SPENCER W. COATES, WSBA No. 49683
 16 JEFFREY T. SPRUNG, WSBA No. 23607
 17 R. JULY SIMPSON, WSBA No. 45869
 18 Assistant Attorneys General
 paul.crisalli@atg.wa.gov
 spencer.coates@atg.wa.gov
 jeff.sprung@atg.wa.gov
 july.simpson@atg.wa.gov
Attorneys for Plaintiff State of Washington